*THE BILL IS 90 PAGES LONG IF YOU WOULD LIKE A COPY OF THE ENTIRE BILL PLEASE CONTACT THE LAW LIBRARY.

25

MONTANA LEGISLATIVE HISTORY

Chapter 125 19 2001

Bill H _____ S SB7 Original bill & history ___C

H. Committee on Natural Resources			S. Committee on Judiciary		
Hearing Date(s) & EXEC ACTION	3/2	X C	Hearing Date(s)	_____	___C
	_____	___C		1/11	✓ C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	_____	___C		Out 1/12	✓

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

5/05 Signed by Governor
5/05 Chapter Number Assigned
Chapter Number 583
Effective Date: 10/01/2001 - All Sections

SB 5 Introduced by Grimes *LC0110 Drafter: Petesc*

Clarify Information Disclosure of Peer Review Committee

By Request of Law, Justice, and Indian Affairs Interim Committee

11/22 Introduced
1/03 First Reading
1/03 Referred to Public Health, Welfare and Safety
2/23 Missed Deadline for General Bill Transmittal

SB 6 Introduced by Cole *LC0161 Drafter: Petesc*

Limit Landowner Liability for Condemned Property

By Request of Environmental Quality Council

11/22	Introduced	
1/04	First Reading	
1/04	Referred to Judiciary	
1/11	Hearing	
1/12	Committee Executive Action--Bill Passed as Amended	8
1/12	Committee Report--Bill Passed as Amended	
1/15	2nd Reading Passed on Voice Vote	50
1/16	3rd Reading Passed	49
	Transmitted to House	
2/01	Referred to Natural Resources	
3/02	Hearing	
3/05	Committee Executive Action--Bill Concurred	20
3/05	Committee Report--Bill Concurred	
3/07	2nd Reading Concurred	99
3/08	3rd Reading Concurred	99
	Returned to Senate	
3/08	Sent to Enrolling	
3/09	Returned from Enrolling	
3/10	Signed by President	
3/14	Signed by Speaker	
3/16	Transmitted to Governor	
3/22	Signed by Governor	
3/23	Chapter Number Assigned	
	Chapter Number 113	
	Effective Date: 3/22/2001 - All Sections	

SB 7 Introduced by Cole *LC0162 Drafter: Petes*

Clarify Eminent Domain Laws

By Request of Environmental Quality Council

11/22	Introduced		
1/04	First Reading		
1/04	Referred to Judiciary		
1/11	Hearing		
1/12	Committee Executive Action--Bill Passed	7	0
1/12	Committee Report--Bill Passed		
1/15	2nd Reading Passed on Voice Vote	50	0
1/16	3rd Reading Passed	49	0
	Transmitted to House		
2/01	Referred to Natural Resources		
3/02	Hearing		
3/05	Committee Executive Action--Bill Concurred	20	0
3/05	Committee Report--Bill Concurred		
3/07	2nd Reading Concurred	100	0
3/08	3rd Reading Concurred	100	0
	Returned to Senate		
3/08	Sent to Enrolling		
3/09	Returned from Enrolling		
3/10	Signed by President		
3/14	Signed by Speaker		
3/16	Transmitted to Governor		
3/26	Signed by Governor		
3/26	Chapter Number Assigned		
	Chapter Number 125		
	Effective Date: 10/01/2001 - All Sections		

8 Introduced by Waterman *LC0174 Drafter: Heiman*

Agency May Adopt Rules to Implement Act If Rules Are Not Effective Before Act

11/22	Introduced		
1/03	First Reading		
1/03	Referred to State Administration		
1/08	Hearing		
1/10	Committee Executive Action--Bill Passed	8	0
1/11	Committee Report--Bill Passed		
1/12	2nd Reading Passed on Voice Vote	47	0
1/13	3rd Reading Passed	44	0
	Transmitted to House		
2/01	Referred to State Administration		
3/09	Hearing		
3/09	Committee Executive Action--Bill Concurred	18	0
3/09	Committee Report--Bill Concurred		
3/15	2nd Reading Concurred	94	6
3/17	3rd Reading Concurred	90	10
	Returned to Senate		
3/19	Sent to Enrolling		
3/20	Returned from Enrolling		
3/21	Signed by President		
3/26	Signed by Speaker		
3/27	Transmitted to Governor		
4/03	Signed by Governor		
4/03	Chapter Number Assigned		
	Chapter Number 185		

* The Bill is 90 pages long please contact the law library if you would like the entire Bill.

SENATE BILL NO. 7

INTRODUCED BY M. COLE

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO EMINENT DOMAIN FOR THE SOLE PURPOSE OF MODERNIZING THE LANGUAGE, INCLUDING REFERENCES TO THE PROCEDURE TO BE FOLLOWED IN EMINENT DOMAIN ACTIONS, AND SPECIFICALLY ENUMERATING THE PUBLIC USES FOR WHICH THE POWER OF EMINENT DOMAIN MAY BE EXERCISED; AND AMENDING SECTIONS 7-1-4124, 7-5-4106, 7-7-4404, 7-13-2218, 7-13-4404, 7-13-4405, 7-13-4406, 7-14-101, 7-14-1625, 7-14-2101, 7-14-2108, 7-14-2123, 7-14-2621, 7-14-2803, 7-14-2829, 7-14-4501, 7-14-4622, 7-14-4626, 7-14-4801, 7-15-4204, 7-15-4258, 7-15-4259, 7-15-4460, 7-15-4462, 7-16-2105, 7-16-4106, 7-35-2201, 15-70-301, 15-70-701, 23-1-102, 35-18-106, 35-20-104, 53-2-201, 60-1-103, 60-5-104, 67-2-301, 67-5-202, 67-6-301, 67-10-102, 67-10-103, 67-10-201, 67-10-205, 67-10-221, 67-11-201, 67-11-204, 67-11-231, 67-11-401, 69-13-104, 69-14-513, 69-14-536, 69-14-552, 70-30-102, 70-30-103, 70-30-104, 70-30-105, 70-30-106, 70-30-107, 70-30-108, 70-30-109, 70-30-110, 70-30-111, 70-30-202, 70-30-203, 70-30-206, 70-30-207, 70-30-301, 70-30-302, 70-30-303, 70-30-304, 70-30-305, 70-30-306, 70-30-307, 70-30-308, 70-30-309, 70-30-310, 70-30-311, 70-30-312, 70-30-314, 70-30-315, 70-30-321, 70-30-322, 70-31-102, 70-31-104, 70-31-105, 70-31-301, 70-31-311, 70-32-216, 75-10-715, 75-10-720, 75-15-123, 75-15-223, 76-5-1108, 76-5-1111, 76-6-105, 76-12-108, 76-12-110, 82-2-221, 82-2-222, 82-2-224, 82-10-303, 82-10-304, 82-10-305, 85-1-204, 85-1-209, 85-7-1411, 85-7-1904, 85-7-1932, 85-9-410, AND 87-1-209, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-1-4124, MCA, is amended to read:

"7-1-4124. Powers. A municipality with general powers has the power, subject to the provisions of state law, to:

(1) enact ordinances and resolutions;

(2) sue and be sued;

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on January 11, 2001 at 9:09 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Walter McNutt (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)

Members Excused: None.

Members Absent: None.

Staff Present: Anne Felstet, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 6, SB 7, 1/5/2001
Executive Action: SB 4, SB 63

only, unless someone came along and proved otherwise. In the case of the highway department, they have to, because of federal funds, therefore, they were exempted in HB 22. He acknowledged the committee did not fix everything, but were able to clarify Eminent Domain and tried to balance the opposing rights.

Closing by Sponsor:

SEN. COLE closed on SB 6. He said the bill clarified things and retained existing law.

HEARING ON SB 7

Sponsor: **SEN. MACK COLE, SD 4, HYSHAM**

Proponents:
REP. DAN McGEE, HD 21, member of the Eminent Domain study committee
REP. MONICA LINDEEN, HD 7, member of the Environmental Quality Council in the interim and the Eminent Domain study committee
Tom Ebzery, attorney for Qwest
Clint McRae, member and spokesman of Northern Plains Resource Council and V.P. of Rocker Six Cattle Company of Forsyth
Julia Page, small business in Gardner. Member of the Northern Plains Resource Council, public member of the Environmental Quality Council
Dan Teigen, farmer and rancher in the town of Teigen
Lorna Karn, MT Farm Bureaus Association
Steve Gilbert, representing himself
Steve Wade, Burlington Northern Santa Fe Railroad

Opponents: **None**

Opening Statement by Sponsor:

SEN. MACK COLE, SD 4, HYSHAM, opened on SB 7. He pointed out that this bill was much larger than SB 6. It reflected the more important work of the subcommittee. The original Eminent Domain laws were written in the late 1800's. The language and style had not changed an appreciable amount. One of the goals of the subcommittee was to make the Eminent Domain laws more understandable. Therefore, SB 7 cleaned up the language of Eminent Domain statutes to current draft bill standards. It also served another purpose. The Eminent Domain laws were housed in basically one location, Title 70, Chapter 30. However, the authority to exercise the right of Eminent Domain was granted to

various entities throughout the code. SB 7 referenced each area throughout the code where Eminent Domain authority was granted.

Proponents' Testimony:

REP. DAN McGEE, HD 21, member of the Eminent Domain study committee, said it became clear early on that the Eminent Domain statutes were confusing, chaotic, and were located throughout code. So, the first thing the subcommittee did was construct a 'clean-up bill' to put all the issues of Eminent Domain in one place in code and reference where ever else it may be in code. The bill was straight forward; there were no substantive changes.

REP. MONICA LINDEEN, HD 7, member of the Environmental Quality Council in the interim and the Eminent Domain study committee, said she looked forward to bringing over the House Bills on the subject.

Tom Ebzery, attorney in Billings representing Qwest, said the statutes were antiquated and SB 7 brought them up to standards with the 21 century as far as drafting language was concerned.

Clint McRae, Member and spokesman for the Northern Plains Resource Council and V.P. of Rocker 6 Cattle Company of Forsyth, pointed out that SB 7 was a bi-partisan agreement; one of the few times that industry and landowners sat down to hammer out an agreement on the same side of an issue.

Julia Page, business owner from Gardner, member of the Northern Plains Resource Council, member of the Environmental Quality Council, and member of the Eminent Domain subcommittee, said the committee found that Eminent Domain was used quite a bit in Montana, although very few cases actually went to court any given year. Sometimes people were able to reach satisfactory negotiation, but not always, then they had to go to the actual condemnation which utilized the rules set out in the Eminent Domain law. Not only did landowners come up and say that projects had come up and through their property, but various communications, pipeline, transportation, railroad, highways, different industries said they use it a lot as well. They usually didn't have to go to condemnation, but the power to utilize Eminent Domain was with them every time they negotiated. This bill helped put all the authorized public purposes into one piece of statute, and this bill was useful as an aid to make the law more clear.

{Tape : 3; Side : A; Comments : Tape change in middle of Julia Page's testimony, }

Dan Teigen, farmer and rancher in the town of Teigen, said SB 7 helped clarify and better present guidelines for Eminent Domain as used by various entities and used on private land across Montana. He felt his family's experience with condemnation could have been much less negative had a bill like this been introduced long ago. For the future, his experience with Eminent Domain could be better.

Lorna Karn, Montana Farm Bureau Federation, supported SB 7.

Steve Gilbert, representing himself, said the bill consolidated and clarified a law on the records of Montana that was 100 years overdue.

Steve Wade, attorney on behalf of Burlington Northern Santa Fe Railway, said when the study began, there was a lot of confusion and questions because the Eminent Domain statutes were so scattered throughout the code. So, he supported anything that provided clarification to allow people to better understand the process.

Opponents' Testimony:

None

Questions from Committee Members and Responses:

SEN. MIKE HALLIGAN asked if the list in section 52, could be consolidated for simplicity. **Krista Lee-Evans, Legislative Services Division staff,** said the legislature was the sole entity that determined what public uses, Eminent Domain, could be used for. Historically, in the court, if a public use was listed on this list, they didn't touch it. What they determine was whether or not the particular portion of property that was in the court case was necessary for that particular project or for that public use. She said the public uses section was cross-referenced back and forth so a person could find all the public uses for which Eminent Domain could be exercised.

SEN. HALLIGAN asked why they kept in telegraph lines since they were going through and updating the bill. **Ms. Lee-Evans** replied the subcommittee chose not to change any of the public uses and not to add any additional ones other than to cross-reference. They chose to leave it in because of court precedent and court cases which used telegraph and from that to telephone, and from that to telecommunications.

SEN. HALLIGAN redirected and asked if there was any need to modernize that language. **Tom Ebzery, attorney for Qwest**, said

telegraph was used in the most recent Supreme Court decision, and that was fairly all inclusive of the telecommunications era. However, if terms changed then they would come to the legislature later and ask for a broader definition. For now, the definition of telecommunications and telegraph was broad enough to include internet and the various uses in the high-tech revolution.

SEN. HALLIGAN suggested not to wait for that, but to maybe put in a new telecommunications definition now. **Mr. Ebzery** said the latest case was fairly definitive, and deemed broad enough, so that this bill was not the proper place to make a change like that. The subcommittee just did not feel like they had a definition they could agree on other than the Supreme Court definition and what was in existing law.

SEN. STEVE DOHERTY pointed out several troublesome instances where land could be condemned. **Rep. Dan McGee** replied that it was already statute. SB 7 merely combined all the statutes from all over the code and it was not the tool to deal with those issues. SB 7 was not intended to be a policy bill, but simply a table of contents; there was nothing substantive. Part of the agreement in doing this particular bill, was that there would be nothing substantive. He agreed the issues should be looked at, but that wasn't the object of the bill.

Closing by Sponsor:

SEN. COLE closed on SB 7 acknowledging that many of the things that **SEN. DOHERTY** brought up, the committee did discuss, and felt that this wasn't the place to put them. He said other issues arose from the subcommittee and if there was not a consensus, then comments could be made by those who had voted against the final recommendation. This was something that would be valuable for future hearings or if people were interested in more as far as what was done in the Eminent Domain subcommittee. He concluded by saying it was important that the Eminent Domain laws stayed in effect in such a way to be fair and equitable to both sides.

EXECUTIVE ACTION ON SB 6

Motion: **SEN. HALLIGAN** moved that **SB 6 DO PASS.**

Discussion:

SEN. JERRY O'NEIL suggested amendments for clarity.

DATE 01-11-01

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 6, SB 7

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Dan Teigen	428 2444	self	6/7	VV	
Julia Page	848-7571	self	6+7	"	
Steve Gilbert	443-2259	self	6/7	XX	
LORNA KARN	442-9476	MT. FARM Bureau	6+7	X	
Ed Connell	222 4520	PARK County			
Tom Ebzery	441-7531	QUEST	6/7	VV	
Dan McGee	4827	Legislature	6/7	✓	
Jeff Barbe	439-6540	Clark Fork Coalition	6	X	
David Aberconbie	442-7582	MT Petroleum Assn	6/7	"	
Steve Wade	443-6820	BNSF	7	✓	
Tom Allen	443-7531	WETA	6/7	V	
Monica J. Lindeen	444-4800	HD7	6/7	V	
CLINT WISER	547-5221	ROCKER SIX CATTLE CO.	6/7	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE Jan. 11

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB6, SB7

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Chuck Brooks	6-99-2586	Big C Lumber	SB6 SB7	✓	
Geoff Feriss	442 4346	Mont. Telecom Assn	SB6 SB7	–	
Krista Lee-Evans		LSD Staff.			

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on January 12, 2001 at 9:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:
Sen. Lorents Grosfield, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Steve Doherty (D)
Sen. Ric Holden (R)
Sen. Walter McNutt (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)

Members Excused: Sen. Mike Halligan (D)

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Cecile Tropila, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted: SB 204
Executive Action: SB 7, SB 6, SB 204, SB 1, SB 4, SB 26

HEARING ON SB 204

Sponsor: **SEN. JOHN COBB SD 25 AUGUSTA**

Proponents: **NONE**

Opponents: **NONE**

Opening Statement by Sponsor:

SEN. JOHN COBB SD 25 AUGUSTA, stated that this bill deals with restitution to the victim. He said that the main part of the bill allows the victim to collect a restitution in a civil proceeding at any time after the restitution is ordered. He handed out information from the codes regarding criminal procedure **EXHIBIT(1)**. He explained the exhibit he handed out and said that the victim can go to court under a regular trial and claim for damages including restitution, but they would have to go to court and have a new hearing and new trial.

He stated that many other states allow restitution orders to be enforced the same as civil judgements. The Federal Victim Witness Protection Act of 1982 allowed a provision that stated a restitution order may be enforced as though it was civil judgement rendered by the United States District Court. He pointed out a statute from the state of Alabama, which allowed a restitution order in a criminal case as a final judgement. He said that the victim has a right to enforce this situation since the court already has the right to enforce it as a civil judgement.

Proponents Testimony: None

Opponents Testimony: None

Questions from Committee Members and Responses:

SEN. GRIMES said that **Valencia Lane, Legislative Staff,** will look over the retroactive portion of this bill.

SEN. COBB asked if what the total amount of the restitution order was? **Valencia Lane** said that on page two, line 13 it would clarify it.

Closing by Sponsor:

SEN. JOHN COBB SD 25 AUGUSTA, closed by asking the committee for support of this bill.

EXECUTIVE ACTION ON SB 7

Motion: SEN. STEVE DOHERTY moved that **SB 7 DO PASS.**

SEN. DOHERTY said this bill does not do anything substantive, it simply complies the myriad of references to eminent domain in the statutes and modernizes the language, bringing it up to date.

Vote: Motion carried unanimously.

Miscellaneous Discussion Regarding Proxy Voting:

CHAIRMAN LORENTS GROSFIELD handed out a paragraph dealing with proxy voting **EXHIBIT(2)**. He explained that this paragraph was drafted by **Greg Petesch, Legislative Staffer,** to review the status guo and the rules explaining absentee voting.

SEN. WALT MCNUTT asked if the committee was going leave the vote open for 24 hours. **CHAIRMAN GROSFIELD** said the committee may do that for certain situation such as a case where the vote is tied.

SEN. DUANE GRIMES said he thought that the 24 hours would be for the purpose of someone who did not get a chance to vote.

SEN. RIC HOLDEN mentioned that the proxy voting should be open a legislative day rahter than 24 hours. He thought that the chairman should have the discretion if they were to hold it open for a legislative day.

SEN. GRIMES stated that the committee should add to the proxy voting "written votes with another committee member voting left open until next scheduled meeting upon the discretion of the chairman".

Motion/Vote: SEN. GRIMES moved that **COMMITTEE PROXY VOTING BE AMENDED. Motion carried unanimously.**

(Tape 1; Side B)

EXECUTIVE ACTION ON SB 6

Motion: CHAIRMAN GROSFIELD moved that **SB 6 BE AMENDED.** Amendments were handed out **EXHIBIT(3).**

Discussion:

Valencia Lane explained the amendments stating the sections that had been revised and made more clear.

Vote: Motion **that SB 6 BE AMENDED carried unanimously.**

Motion/Vote: SEN. DOHERTY moved that **SB 6 DO PASS AS AMENDED. Motion carried unanimously.**

SENATE STANDING COMMITTEE REPORT

January 12, 2001

Mr. President:

We, your committee on **Judiciary** report that **Senate Bill 7** (first reading copy - white) **do pass.**

Signed: _____
Senator Lorents Grosfield, Chair

- END -

Committee Vote:
Yes 7, No 0.

091242SC.srf

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON NATURAL RESOURCES

Call to Order: By **VICE CHAIRMAN GAIL GUTSCHE**, on March 2, 2001 at 3:00 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Gail Gutsche, Vice Chairman (D)
Rep. Keith Bales (R)
Rep. Rod Bitney (R)
Rep. Dee Brown (R)
Rep. Aubyn A. Curtiss (R)
Rep. Larry Cyr (D)
Rep. Bill Eggers (D)
Rep. Ron Erickson (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Rick Laible (R)
Rep. Jeff Laszloffy (R)
Rep. Douglas Mood (R)
Rep. Bob Story (R)
Rep. Brett Tramelli (D)
Rep. David Wanzenried (D)

Members Excused: Rep. Cindy Younkin, Chairman (R)
Rep. Rick Dale, Vice Chairman (R)
Rep. Gilda Clancy (R)

Members Absent: None.

Staff Present: Holly Jordan, Committee Secretary
Larry Mitchell, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 6, 2/19/2001; SB 7, 2/19/2001; SB 102, 2/19/2001
Executive Action: SB 6; SB 7; SB 102

Don Allen, WETA, stated that the two bills are part of the package of four bills that came out of the EQC study. He stated that WETA supports both SB 6 and SB 7. He stated that Gail Abercrombie of the Montana Petroleum Association couldn't be at the hearing but wanted him to express their support for both the bills. He asked for a do concur.

Jeff Barber, Clark Fork Coalition, stated that he is in support of SB 6.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 9.5}

REP. HURDLE asked **Ms. Page**, under "joint and several liability" doesn't it usually turn out that everybody is partly liable? What is your understanding of how liability would be determined? **Ms. Page** stated that was discussed extensively. This is amending that part of the law and saying that not only is the landowner not liable in those instances but if they were named in a suit their legal fees could be paid for as long as they were not found to be the responsible party.

REP. HURDLE asked **Krista Lee** wouldn't she say the chances are that a landowner may be one of the people who would be determined as partially liable. **Ms. Lee** stated, under the new section 1 the landowner can be named as a potentially liable party. In the CECRA laws, which is the section 2, 75-10-715, it is inserted except as provided in section 1. Section 1 states, unless the negligence or intentional conduct of the condemnee or the condemnee successor in interest is the cause of the damage. On top of that, with what Ms. Page said, if they are named and they are not liable then the property owner's attorney fees are paid. If they are liable they are only severally liable, not joint liable.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 12.8}

SEN. COLE stated that SB 6 says that the landowner would not be liable except for negligence or intentional conduct.

HEARING ON SB 7

Sponsor: **SEN. MACK COLE, SD 4, Billings**

Proponents: **Jeff Barber, Clark Fork Coalition**
Lorna Karn, Montana Farm Bureau
Julia Page, NPRC
Tom Ebzery, Qwest
Geoff Geiss, Montana Telecom Association
Don Allen, WETA
Gail Abercrombie, Montana Petroleum Association
Steve Wade, BNSF

Opponents: None.

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 13.5}

SEN. MACK COLE, SD 4, Billings, stated, SB 7 is one of the most important bills that came out of the eminent domain subcommittee. It is a basic cleanup bill. It brings the language of eminent domain statute to current bill drafting standards. It also references each area throughout the code where eminent domain authority is granted.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 15.2}

Lorna Karn, Montana Farm Bureau, submitted written testimony EXHIBIT(1).

Tom Ebzery, Qwest, stated, SB 7 is a clean up bill. He asked for a do concur.

Steve Wade, BNSF, stated, BNSF supports any bill that clears up eminent domain and makes the process more workable. He asked for a do concur.

Julia Page, NPRC, stated, it is helpful to have all references to the statute in one place. The modernizing is a positive step. She asked for a do concur.

Don Allen, WETA, stated that WETA supports both SB 7. It seems like the sensible thing to do. He stated that Gail Abercrombie of the Montana Petroleum Association couldn't be at the hearing but wanted him to express their support for the bill. He asked for a do concur.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 20.4}

REP. LAIBLE asked **SEN. COLE**, if there are any substantive changes in SB 7 other than just clean up language. **SEN. COLE** stated that he does not remember any substantive changes.

REP. BROWN asked **SEN. COLE**, regarding section 31, there have been substantial additions to that section, is it because we have updated our thought on cooperatives and had to add in lots of new things? **SEN. COLE** deferred to **Krista Lee** who stated a lot of the section is just renumbered and reorganized. She gave an example of this. She asked **REP. BROWN** for a specific part she was questioning. **REP. BROWN** stated pages 26 and 27. **Ms. Lee** stated sub 12 A-C and sub 13 have been removed and rewritten. There hasn't been any substantive changes it's strictly updating the language.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 23.5}

SEN. COLE gave a background on the eminent domain study. He asked for a do concur.

HEARING ON SB 102

Sponsor: **SEN. MACK COLE, SD 4, Billings**

Proponents: **Monte Mason, DNRC**

Opponents: None.

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 26.3}

SEN. MACK COLE, SD 4, Billings, stated that SB 102 simply authorizes exchange of state trust lands for state government and local government lands. It provides a clear authority to exchange the land with state and local government. Current authority was not specific in mentioning state and city governments. The bill consolidates exchange authority for private, state and local governments into one statute. It repeals 77-2-202 that provided authority exchange of county government. Exchange authority with county governments is included within the proposed legislation.

Proponents' Testimony:

REP. GUTSCHE asked **Mr. Mason** how the process works, can the Land Board unilaterally trade land or does the beneficiary get any say? **Mr. Mason** stated the Land Board is the sayer of what the proper and prudent management of those lands should be. They are supposed to do that for the benefit of the school trust beneficiary. **REP. GUTSCHE** asked what this repeals. **Mr. Mason** stated section 77-2-202 is titled *Exchange of Lands With Counties* which contains language very similar to section 77-2-203 which is *Exchange for Private Land*. Those two sections are merged together in this bill.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 39.3}

SEN. COLE stated that Speaker McGee will carry both SB 6 and SB 7. He asked for a do concur.

EXECUTIVE ACTION ON SB 6

{Tape : 1; Side : A; Approx. Time Counter : 40.6}

Motion/Vote: **REP. ERICKSON** moved that **SB 6 BE CONCURRED IN.** **Motion carried unanimously.**

EXECUTIVE ACTION ON SB 7

{Tape : 1; Side : A; Approx. Time Counter : 41.5}

Motion: **REP. ERICKSON** moved that **SB 7 BE CONCURRED IN.**

Discussion:

REP. GUTSCHE stated, regarding page 44, where the public uses are enumerated, this bill puts them all together. This is a really good example of what the bill does.

Vote: Motion **carried unanimously.**

EXECUTIVE ACTION ON SB 102

Motion: **REP. YOUNKIN** moved that **SB 102 BE CONCURRED IN.**

Discussion:

REP. HOLDEN stated that the committee may want to change the language on page 2, line 7. Strike the word "is" and insert the words "can be".

Legislative Highlights
Montana Farm Bureau Federation

MFBF
Legislative Office
1310 Floweree
Helena, MT 59601
406-442-9476
fblegis@in-tch.com

MFBF
State Office
502 S. 19th St.
Bozeman, MT 59718
406-587-3153
mtfarmb@in-tch.com

Capitol Switchboard
406-444-4800

David McClure
President

Bob Hanson
Vice President

Jake Cummins
Executive Vice President

Lorna Frank-Karn
Lobbyist

John Youngberg
Lobbyist

Scott Kulbeck
Assistant Lobbyist

Diana Pearce
Executive Secretary

March 2, 2001

EXHIBIT 1
DATE 3-2-01
SB 6 + 7

Mr. Chairman, members of the committee, for the record I am Lorna Karn representing the Montana Farm Bureau Federation.

Farm Bureau members support SB 6. We believe that landowners or tenants should not be held liable, unless it is proven the landowner or tenant acted in a negligent or intentional way, for damages that result from construction, use, or maintenance of a project on their property which was obtained through eminent domain.

The Montana Farm Bureau also supports SB 7. We attended some of the interim meetings held by EQC on eminent domain and believe that by modernizing the language and putting the many different laws on eminent domain in one place will help the general public to better understand how and where they stand when someone tells them they are going to use their powers of eminent domain to come through your land.

The handbook that was developed by the interim committee is an excellent tool for landowners to have and to read so they will know the score.

We urge this committee to support SB 6 and SB 7 and to recommend, "do concur".

Thank you.

Lorna Karn

Lorna Karn

HOUSE OF REPRESENTATIVES

ROLL CALL

NATURAL RESOURCES

DATE March 2, 2001

NAME	PRESENT	ABSENT	EXCUSED
CINDY YOUNKIN	✓		✓ 10 mins
RICK DALE			✓
GAIL GUTSCHE	chair ✓		
GILDA CLANCY			✓
LARRY CYR	✓		
KEITH BALES	✓		
BILL EGGERS			
LINDA HOLDEN	✓		
BRETT TRAMELLI	✓		
RICK LAIBLE	✓		
DOUGLAS MOOD	✓		
DAVID WANZENRIED	✓		
JEFF LASZLOFFY	✓		
RON ERICKSON	✓		
AUBYN A. CURTISS	✓		
CHRISTOPHER HARRIS			
ROD BITNEY	✓		
DEE BROWN	✓		
JOAN HURDLE	✓		
BOB STORY	✓		
LARRY MITCHELL	✓		
HOLLY JORDAN	✓		

HOUSE STANDING COMMITTEE REPORT

March 5, 2001

Mr. Speaker:

We, your committee on **Natural Resources** recommend that **Senate Bill 7** (third reading copy - blue) **be concurred in**.

Signed: *Representative Cindy Younkin, Chair*

To be carried by Representative Dan McGee

- END -

Committee Vote:
Yes 20, No 0.

500850SC.hdc

MONTANA HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE
VISITORS REGISTER

DATE March 1, 2001

BILL NO. SB 7 SPONSOR(S) Sen. Cole

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
(P) O I	Jeff Barber	Helena	Clark Fork Coalition
(P) O I	Lorna Karn	Bozeman	MT FARM BUREAU
(P) O I	Julia Page	Gardiner	N.P.R.C.
(P) O I	Tom Ebzery	Billings	QWEST
(P) O I	Geoff Feiss	Helena	MT Telecom Assn.
(P) O I	Steve Wade	Helena	BNSF
(P) O I	Jon Ables	Helena	WETA
(P) O I	Gail Abercrombie	Helena	MT Petr. Assoc.
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony